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MEMORANDUM

Date: April 22, 2013

To: City and County Planning Directors

From: Scott Morgan,
Deputy Director of Administration, Governor's Office of Planning & Research (OPR)
Director, State Clearinghouse

Subject: **Local Government Planning Requirements; Updated SB 1462 Military Notification Contacts**

Purpose:

The Governor's Office of Planning and Research (OPR) is writing to notify you of recent updates to the SB 1462 (2004) military contact notification list. Please see Attachment 1 for the updated contact list. This memorandum also provides a summary of all local government notification requirements and responsibilities under the California Government Code, Sections 65352, 65404, 65940 and 65944 (commonly known as SB 1462).

In addition, this memorandum is a reminder from OPR to Cities and Counties to notify all of the branches of the United States Military (Military), as required by law, when proposed general plan actions and amendments, or development projects, might have an impact on military facilities and operations.

Background on SB 1462:

SB 1462 (Kuehl, 2004) created a notification process to inform the Military of local land use proposals that might have an impact on military facilities and operations, in order to prevent land use conflicts between local communities and military installations and training activities. Specifically, the bill amended Government Code Sections 65352, 65404, 65940, and 65944, and required local governments to: 1) revise their development permit application forms to require identification of whether the proposed project is within 1,000 feet of a military installation, beneath a low-level flight path, or within special use airspace and 2) notify the Military when a proposed project, or an updated or revised general plan, might have an impact on military facilities and operations.

OPR and the California Resources Agency have developed an online planning tool with maps of military use areas to assist with this process.

The online mapping tool is available at: <http://cmluca.projects.atlas.ca.gov>.

This planning tool provides an easy to use map of military installation locations throughout the state, as well as a map of where military training activities takes place. Please note that even if a City or County is not near a military base, it may still be within a military training or special use area.

Notification Requirements:

The following is a summary of the statutory requirements under SB 1462. The relevant Government Code sections are provided in Attachment 2. These process changes only apply to jurisdictions, or proposed projects and actions that meet the specific criteria. Affected jurisdictions, or projects and actions, are: located within 1,000 feet of a military installation; beneath a low-level flight path; or, within special use airspace as defined in Section 21098 of the Public Resources Code.

1. Government Code Section 65352 (a)(6)

Before any legislative body adopts or substantially amends a general plan, the planning agency shall refer the proposed action, if it meets one or more of the above criteria, to all of the branches of the Military.

2. Government Code Section 65940

Local governments are required to change their development permit application forms to allow an applicant to identify whether a proposed project meets one or more of the listed criteria, as well as whether the project is in an urbanized area as defined in Government Code Section 65944 (2).

3. Government Code Section 65944 (d)(1)

After a local agency accepts a development application as complete, and if the project applicant has identified that the proposed project meets one or more of the criteria listed above, the local agency shall send a copy of the complete application to all of the Military branches.

Exceptions:

Please note the following exceptions, listed in Government Code Section 65940. Cities and Counties that do not contain a military installation and are not beneath a low-level flight path, or within special use airspace, are not required to change their project applicant information lists. In addition, Cities and Counties which do not contain a military installation, and which are entirely urbanized (as defined in Gov. Code Section 65944) are not required to change their project applicant application lists.

Military Contacts/Addresses:

Attachment 1 contains point of contact mailing addresses for each of the four branches of the Military. Please use these addresses for referring general plans or general plan amendments, and development applications to the Military, as required in numbers 1 and 3 above. Documents must be sent by mail to each of these addresses. Please also send documents via email.

Once the Military receives a copy of a development application from your agency, the Military may request a consultation with your agency and the project applicant to discuss the effects of the proposed project on military facilities or operations (Gov. Code Section 65944 (e)).

Mapping Tools to Meet Notification Requirements:

The Military provided the State with maps of its installations, low-level flight paths, and special use airspace to enable local governments to comply with the new notification requirements. The Resources Agency of California, in conjunction with OPR, has made this information publically available. The California Military Land Use Compatibility Analyst (CMLUCA) is available for use by local planners, permit applicants, and developers to easily determine if a project triggers Military notification. CMLUCA is available at: <http://cmluca.projects.atlas.ca.gov>.

Questions:

Please contact Holly Roberson, Land Use Counsel at OPR, if you have any questions about SB 1462 or military land use compatibility. She can be reached at (916) 322-0476 or holly.roberson@opr.ca.gov.

Attachments:

1. Military Mailing Addresses for SB 1462 Compliance
2. Government Code Sections Amended by SB 1462

Thank you for your time and attention to this important matter.

Attachment 1

Military Mailing Addresses for SB 1462 Notification

All SB 1462 required referrals to the United State Military must be addressed to the following single points of contact for the four Military branches listed below. All SB 1462 required documents must be sent by US Mail. Please also send SB 1462 notification via email.

US Air Force

Steve Arenson
Regional Environmental Officer for California
Western Region Environmental Office
US Air Force
50 Fremont Street, Suite 2450
San Francisco, CA 94105-22230
steven.arenson@us.af.mil

US Army

Region Nine

Tim Kilgannon
Region Nine Environmental Coordinator
Regional Environmental and Energy Office
Office of the Deputy Assistant Undersecretary of the Army
Office of Strategic Integration
721 19th St., Room 427
Denver, CO 80202
timothy.r.kilgannon.civ@mail.mil

Fort Irwin

Philip Crosbie
Chief
Strategic Plans, S3, NTC
Fort Irwin National Training Center
P.O. Box 10172
Ft. Irwin, CA 92310
phil.crosbie@us.army.mil

Fort Hunter Liggett

Gary Houston
Chief
Environmental Division
Directorate of Public Works
USAG Fort Hunter Liggett, CA 93928
gary.a.houston10.civ@mail.mil

US Navy

Steve Chung
Regional Community Plans and Liaison Officer
Navy Region Southwest
US Navy
1220 Pacific Highway
San Diego, CA 92132-5190
steve.u.chung@navy.mil

US Marine Corps

Patrick Christman
Director
Western Region Environmental Office
US Marine Corps
Building 1164, Box 555246
Camp Pendleton, CA 92055-5246
patrick.christman@usmc.mil

Attachment 2

Government Code Sections and Public Resources Code Section

The **bold-faced** type indicates the portions of the Government Code which requiring notification to the United States Military of certain general plan actions and development permit applications.

65352. Referral of Plans

(a) Prior to action by a legislative body to adopt or substantially amend a general plan, the planning agency shall refer the proposed action to all of the following entities:

(1) A city or county, within or abutting the area covered by the proposal, and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

(2) An elementary, high school, or unified school district within the area covered by the proposed action.

(3) The local agency formation commission.

(4) An area wide planning agency whose operations may be significantly affected by the proposed action, as determined by the planning agency.

(5) A federal agency if its operations or lands within its jurisdiction may be significantly affected by the proposed action, as determined by the planning agency.

(6) (A) The branches of the United States Armed Forces that have provided the Office of Planning and Research with a California mailing address pursuant to subdivision (d) of Section 65944 when the proposed action is within 1,000 feet of a military installation, or lies within special use airspace, or beneath a low-level flight path, as defined in Section 21098 of the Public Resources Code, provided that the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(B) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subparagraph (A) within 30 days of receiving this notice from the office.

(7) A public water system, as defined in Section 116275 of the Health and Safety Code, with 3,000 or more service connections, that serves water to customers within the area covered by the proposal. The public water system shall have at least 45 days to comment on the proposed plan, in accordance with subdivision (b), and to provide the planning agency with the information set forth in Section 65352.5.

(8) The Bay Area Air Quality Management District for a proposed action within the boundaries of the district.

(9) On and after March 1, 2005, a California Native American tribe, that is on the contact list maintained by the Native American Heritage Commission, with traditional lands located within the city or county's jurisdiction.

(b) Each entity receiving a proposed general plan or amendment of a general plan pursuant to this section shall have 45 days from the date the referring agency mails it or delivers it in which to comment unless a longer period is specified by the planning agency.

(c) (1) This section is directory, not mandatory, and the failure to refer a proposed action to the other entities specified in this section does not affect the validity of the action, if adopted.

(2) To the extent that the requirements of this section conflict with the requirements of Chapter 4.4 (commencing with Section 65919), the requirements of Chapter 4.4 shall prevail.

65940. List specifying required data for development project

(a) Each state agency and each local agency shall compile one or more lists **that** shall specify in detail the information that will be required from any applicant for a development project. **Each local agency shall revise** the list of information required from an applicant to include a certification of compliance with Section 65962.5, and the statement of application required by Section 65943. Copies of the information, including the statement of application required by Section 65943, shall be made available to all applicants for development projects and to any person who requests the information.

(b) (1) The list of information required from any applicant shall include, where applicable, identification of whether the proposed project is located within 1,000 feet of a military installation, beneath a low-level flight path or within special use airspace as defined in Section 21098 of the Public Resources Code, and within an urbanized area as defined in Section 65944.

(2) The information described in paragraph (1) shall be based on information provided by the Office of Planning and Research pursuant to paragraph (2) of subdivision (d) as of the date of the application. Cities, counties, and cities and counties shall comply with paragraph (1) within 30 days of receiving this notice from the office.

(c) (1) A city, county, or city and county that is not beneath a low-level flight path or not within special use airspace and does not contain a military installation is not required to change its list of information required from applicants to comply with subdivision (b).

(2) A city, county, or city and county that is entirely urbanized, as defined in subdivision (e) of Section 65944, with the exception of a jurisdiction that contains a military installation, is not required to change its list of information required from applicants to comply with subdivision (b).

(d) (1) Subdivision (b) as it relates to the identification of special use airspace, low-level flight paths, military installations, and urbanized areas shall not be operative until the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations, at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(2) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet.

(Amended by Stats. 1982, Ch. 84; Amended by Stats. 1986, Ch. 1048 and Ch. 1019; Amended by Stats. 1987, Ch. 985; Amended by Stats. 1992, Ch. 1200; Amended by Stats. 2004, Ch. 906.)

65944. Agency Acceptance of Application

(a) After a public agency accepts an application as complete, the agency shall not subsequently request of an applicant any new or additional information which was not specified in the list prepared pursuant to Section 65940. The agency may, in the course of processing the application, request the applicant to clarify, amplify, correct, or otherwise supplement the information required for the application.

(b) The provisions of subdivision (a) shall not be construed as requiring an applicant to submit with his or her initial application the entirety of the information which a public agency may require in order to take final action on the application. Prior to accepting an application, each public agency shall inform the applicant of any information included in the list prepared pursuant to Section 65940 which will subsequently be required from the applicant in order to complete final action on the application.

(c) This section shall not be construed as limiting the ability of a public agency to request and obtain information which may be needed in order to comply with the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(d) (1) After a public agency accepts an application as complete, and if the project applicant has identified that the proposed project is located within 1,000 feet of a military installation or within special use airspace or beneath a low-level flight path in accordance with Section 65940, the public agency shall provide a copy of the complete application to any branch of the United States Armed Forces that has provided the Office of Planning and Research with a single California mailing address within the state for the delivery of a copy of these applications. This subdivision shall apply only to development applications submitted to a public agency 30 days after the Office of Planning and Research has notified cities, counties, and cities and counties of the availability of Department of Defense information on the Internet pursuant to subdivision (d) of Section 65940.

(2) Except for a project within 1,000 feet of a military installation, the public agency is not required to provide a copy of the application if the project is located entirely in an "urbanized area." An urbanized area is any urban location that meets the definition used by the United State Department of Commerce's Bureau of Census for "urban" and includes locations with core census block groups containing at least 1,000 people per square mile and surrounding census block groups containing at least 500 people per square mile.

(e) Upon receipt of a copy of the application as required in subdivision (d), any branch of the United States Armed Forces may request consultation with the public agency and the project applicant to discuss the effects of the proposed project on military installations, low-level flight paths, or special use airspace, and potential alternatives and mitigation measures.

(f) (1) Subdivisions (d), (e), and (f) as these relate to low-level flight paths, special use airspace, and urbanized areas shall not be operative until the United States Department of Defense provides electronic maps of low-level flight paths, special use airspace, and military installations, at a scale and in an electronic format that is acceptable to the Office of Planning and Research.

(2) Within 30 days of a determination by the Office of Planning and Research that the information provided by the Department of Defense is sufficient and in an acceptable scale and format, the office shall notify cities, counties, and cities and counties of the availability of the information on the Internet. Cities, counties, and cities and counties shall comply with subdivision (d) within 30 days of receiving this notice from the office.

(Amended by Stats. 1982, Ch. 84; Amended by Stats. 2004, Ch. 906.)

Public Resources Code Section 21098

21098. (a) For the purposes of this section, the following terms have the following meanings:

(1) "Low-level flight path" includes any flight path for any aircraft owned, maintained, or that is under the jurisdiction of the United States Department of Defense that flies lower than 1,500 feet above ground level, as indicated in the United States Department of Defense Flight Information Publication, "Area Planning Military Training Routes: North and South America (AP/1B)" published by the United States National Imagery and Mapping Agency.

(2) "Military impact zone" includes any area, including airspace that meets both of the following criteria:

(A) Is within two miles of a military installation, including, but not limited to, any base, military airport, camp, post, station, yard, center, homeport facility for a ship, or any other military activity center that is under the jurisdiction of the United States Department of Defense.

(B) Covers greater than 500 acres of unincorporated land, or greater than 100 acres of city incorporated land.

(3) "Military service" means any branch of the United States Armed Forces.

(4) "Special use airspace" means the land area underlying the airspace that is designated for training, research, development, or evaluation for a military service, as that land area is established by the United States Department of Defense Flight Information Publication, "Area Planning: Special Use Airspace: North and South America (AP/1A)" published by the United States National Imagery and Mapping Agency.

(b) If the United States Department of Defense or a military service notifies a lead agency of the contact office and address for the military service and the specific boundaries of a low-level flight path, military impact zone, or special use airspace, the lead agency shall submit notices, as required pursuant to Sections 21080.4 and 21092, to the military service if the project is within those boundaries and any of the following apply:

(1) The project includes a general plan amendment.

(2) The project is of statewide, regional, or area wide significance.

(3) The project is required to be referred to the airport land use commission, or appropriately designated body, pursuant to Article 3.5 (commencing with Section 21670) of Chapter 4 of Part 1 of Division 9 of the Public Utilities Code.

(c) The requirement to submit notices imposed by this section does not apply to any of the following:

(1) Response actions taken pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(2) Response actions taken pursuant to Chapter 6.85 (commencing with Section 25396) of Division 20 of the Health and Safety Code.

(3) Sites subject to corrective action orders issued pursuant to Section 25187 of the Health and Safety Code.

(d) (1) The effect or potential effect that a project may have on military activities does not itself constitute an adverse effect on the environment for the purposes of this division.

(2) Notwithstanding paragraph (1), a project's impact on military activities may cause, or be associated with, adverse effects on the environment that are subject to the requirements of this division, including, but not limited to, Section 21081.